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6                   **IN THE UNITED STATES DISTRICT COURT**  
7                   **FOR THE DISTRICT OF ARIZONA**

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9      United States of America,

No. CR-23-01448-001-PHX-JAT

10                 Plaintiff,

**ORDER**

11      v.

12      Carlos Navarro-Cuevas,

13                 Defendant.

14

15      Pending before the Court is Carlos Navarro-Cuevas’ (“Defendant”) Motion *in*  
16 *Limine* of *Henthorn* Material of Government Agents (“Motion”). (Doc. 59). The Court  
17 now rules on the Motion.

18               **I.       DISCUSSION**

19      Under *U.S. v. Henthorn*, the government’s duty to examine the personnel files of  
20 testifying officers arises upon a defendant’s request for their production. 931 F.2d 29, 30-  
21 31 (9th Cir. 1991). Notwithstanding the use of an incorrect procedural vehicle, the Court  
22 chooses to treat Defendant’s Motion as a Motion to Compel in which Defendant requests  
23 production under *Henthorn*.<sup>1</sup> To this extent, the Motion is granted. However, the Court  
24 will deny Defendant’s Motion (Doc. 59) in part for the following reasons. First, to the  
25 extent that Defendant suggests the prosecution should review the personnel files of “all  
26 law enforcement agents involved in the case,” the motion is denied without prejudice.  
27 *Henthorn* covers *testifying* law enforcement agents only. 931 F.2d at 30-31. Second, to

28      <sup>1</sup> In its response, the government makes clear that it is aware of, and will fully comply  
with, its review and disclosure obligations under *Henthorn*. (Doc. 64).

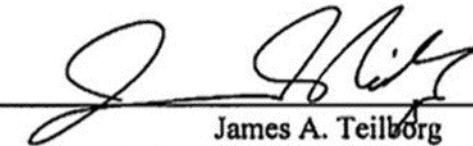
1 the extent that Defendant suggests that the prosecution is required to disclose “any  
2 favorable evidence” obtained, the motion is denied without prejudice. Under *Henthorn*,  
3 the prosecution is only obligated to furnish personnel files that contain information that is  
4 or may be *material* to the defendant’s case. 931 F.2d at 30-31. Finally, to the extent that  
5 Defendant suggests the prosecution should automatically produce material to the court  
6 for an *in camera* inspection, the motion is denied without prejudice. “If the prosecution is  
7 uncertain about the materiality of information within its possession, it may submit the  
8 information to the trial court for an *in camera* inspection and evaluation.” *United States v.*  
9 *Cadet*, 727 F.2d 1453, 1467-68 (9th Cir. 1984).

10           **II. CONCLUSION**

11           Based on the foregoing,

12           **IT IS ORDERED** that the Motion *in Limine* (Doc. 59) is **GRANTED** in part and  
13 **DENIED** in part.

14           Dated this 16th day of October, 2024.

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18           James A. Teilborg  
19           Senior United States District Judge